



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

BJG  
Docket No: 4816-99  
15 October 1999

MAJ [REDACTED] JR USMC  
[REDACTED]  
[REDACTED]

De: [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion from the Headquarters Marine Corps (HQMC) Officer Counseling and Evaluation Section, Officer Assignments Branch, Personnel Management Division (MMOA-4) dated 1 September 1999, a copy of which is attached. They also considered your counsel's rebuttal letter dated 28 September 1999.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish probable material error or injustice. In concluding your request to remove your failures by the Fiscal Year 1999 and 2000 Lieutenant Colonel Selection Boards should be denied, they substantially concurred with the advisory opinion, except they noted you did not "admit" that your fitness report for 23 October 1983 to 7 July 1984 would have been "not observed." They duly noted the recommendation of the HQMC Promotion Branch, in their memorandum of 6 August 1998, that you receive a special selection board; but they further noted that this recommendation was disapproved by the Acting Secretary of the Navy. Finally, they observed your petition does not state that a major at HQMC MMOA-4 advised you the omission of your Marine Corps Command and Staff College Nonresident Program certificate was significant; it merely states she told you it was not in your Official Military Personnel File. Since the Board found insufficient basis to remove your failures of selection to lieutenant colonel, they had no grounds to recommend you for a special selection board. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosures

Copy to:  
Charles W. Gittins, Esq.



4816-99

DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1600  
MMA-4  
1 Sept 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: BCNR PETITION FOR MAJOR [REDACTED]  
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of  
Major [REDACTED] USMC  
of 24 Aug 99

1. Recommend disapproval of [REDACTED] request for removal of his failures of selection.

2. Per the reference, we reviewed [REDACTED] record and petition. [REDACTED] failed selection on the FY99 and FY00 USMC Lieutenant Colonel Selection Boards. He bases his petition on material error and contends the following:

a. A date gap in the record for the period of 831023-840707.

b. Omission of the completion certificate for the Marine Command and Staff Nonresident Program from the Official Military Personnel File (OMPF).

c. The absence of the Change of Duty fitness report of 970731-971015 from the record.

[REDACTED] requests removal of his failures of selection.

3. In our opinion, the missing material from [REDACTED] OMPF did not detract from his overall record nor deprive him of a fair and complete evaluation for promotion.

a. The date gap in [REDACTED] record covers the period of 831023-840706. While date gaps late in the record pose competitive concern due to the inability of the board to evaluate recent performance, this particular date gap appears very early in the record as a young lieutenant. Additionally, the report previous to the date gap was an academic not observed report from the training command and the report after the date gap was an observed report while assigned to VMPF-3. It would be reasonable to presume the date gap covered a not observed period while undergoing Fleet Replacement Squadron (FRS) training. [REDACTED] admits as much in his petition. Finally, [REDACTED] has had over 12 years to

Subj: BCNR PETITION FOR MAJOR [REDACTED]  
[REDACTED] USMC

correct this error.

b. While the certificate of completion for the Command and Staff Nonresident Program is not contained [REDACTED]'s OMPF, it is annotated on his Master Brief Sheet as having been completed in 1990. This would have have been sufficient documentation of PME completion.

c. We do not believe the presence of the Change of Duty fitness report for the period 970731-971015 before the Board would have improve [REDACTED] competitiveness for selection. The report appears to reinforce, but does not improve, [REDACTED] performance as the Operations Officer. The report covers a relatively short period of time, approximately seventy-five days, in the same billet, written by the same Reporting Senior and ranked against the same officers. It documents his continued strong performance as the Operations Officer from the previous report of 961003-970731. We note, the report was signed by the Reviewing Officer on 11 November 1997 and the Board convened on 12 November 1997.

4. In summary, [REDACTED]'s petition is without merit. His record, as it appeared before the Board, was complete and accurate. Two of the three material errors, the date gap and missing certificate, were well within [REDACTED]'s purview to correct. Therefore, we recommend disapproval of [REDACTED] request for removal of his failures of selection.

5. Point of contact is Lieutenant Colonel [REDACTED]

[REDACTED]  
Lieutenant Colonel, U.S. Marine Corps  
Head, Officer Counseling and  
Evaluation Section  
Officer Assignments Branch  
Personnel Management Division